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9 **BEFORE THE**
10 **PHYSICIAN ASSISTANT BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 950-2020-002733

14 **MICHAEL PATRICK REISING, P.A.**
15 **3424 Trio Ln**
Sacramento, CA 95817-2071

ACCUSATION

16 **Physician Assistant License No. PA 16318**

17 Respondent.
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19 **PARTIES**

20 1. Rozana Khan (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs.

22 2. On or about February 15, 2002, the Physician Assistant Board issued Physician
23 Assistant License Number PA 16318 to Michael Patrick Reising, P.A. (Respondent). The
24 Physician Assistant License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on May 31, 2023, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physician Assistant Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3527 of the Code states:

(a) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a PA license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

(b) The board may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.

(c) The Medical Board of California may order the imposition of probationary conditions upon a physician and surgeon's authority to supervise a PA, after a hearing as required in Section 3528, for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

(d) The board may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, a PA license, after a hearing as required in Section 3528 for unprofessional conduct that includes, except for good cause, the knowing failure of a licensee to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of bloodborne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the Osteopathic Medical Board of California, the Podiatric Medical Board of California, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of bloodborne infectious diseases.

(e) The board may order the licensee to pay the costs of monitoring the probationary conditions imposed on the license.

(f) The expiration, cancellation, forfeiture, or suspension of a PA license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

5. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct¹ includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

¹ Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical conduct of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

1 6. Section 820 of the Code states:

2 Whenever it appears that any person holding a license, certificate or permit
3 under this division or under any initiative act referred to in this division may be
4 unable to practice his or her profession safely because the licentiate's ability to
5 practice is impaired due to mental illness, or physical illness affecting competency,
6 the licensing agency may order the licentiate to be examined by one or more
7 physicians and surgeons or psychologists designated by the agency. The report of the
8 examiners shall be made available to the licentiate and may be received as direct
9 evidence in proceedings conducted pursuant to Section 822.

10 7. Section 822 of the Code states:

11 If a licensing agency determines that its licentiate's ability to practice his or her
12 profession safely is impaired because the licentiate is mentally ill, or physically ill
13 affecting competency, the licensing agency may take action by any one of the
14 following methods:

15 (a) Revoking the licentiate's certificate or license.

16 (b) Suspending the licentiate's right to practice.

17 (c) Placing the licentiate on probation.

18 (d) Taking such other action in relation to the licentiate as the licensing agency
19 in its discretion deems proper.

20 The licensing section shall not reinstate a revoked or suspended certificate or
21 license until it has received competent evidence of the absence or control of the
22 condition which caused its action and until it is satisfied that with due regard for the
23 public health and safety the person's right to practice his or her profession may be
24 safely reinstated.

25 8. Section 2266 of the Code states: The failure of a physician and surgeon to maintain
26 adequate and accurate records relating to the provision of services to their patients constitutes
27 unprofessional conduct.

28 **COST RECOVERY**

 9. Section 125.3 of the Code states:

 (a) Except as otherwise provided by law, in any order issued in resolution of a
disciplinary proceeding before any board within the department or before the
Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
administrative law judge may direct a licensee found to have committed a violation or
violations of the licensing act to pay a sum not to exceed the reasonable costs of the
investigation and enforcement of the case.

 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
order may be made against the licensed corporate entity or licensed partnership.

1 (c) A certified copy of the actual costs, or a good faith estimate of costs where
2 actual costs are not available, signed by the entity bringing the proceeding or its
3 designated representative shall be prima facie evidence of reasonable costs of
4 investigation and prosecution of the case. The costs shall include the amount of
investigative and enforcement costs up to the date of the hearing, including, but not
limited to, charges imposed by the Attorney General.

5 (d) The administrative law judge shall make a proposed finding of the amount
6 of reasonable costs of investigation and prosecution of the case when requested
7 pursuant to subdivision (a). The finding of the administrative law judge with regard to
8 costs shall not be reviewable by the board to increase the cost award. The board may
reduce or eliminate the cost award, or remand to the administrative law judge if the
proposed decision fails to make a finding on costs requested pursuant to subdivision
(a).

9 (e) If an order for recovery of costs is made and timely payment is not made as
10 directed in the board's decision, the board may enforce the order for repayment in any
appropriate court. This right of enforcement shall be in addition to any other rights
the board may have as to any licensee to pay costs.

11 (f) In any action for recovery of costs, proof of the board's decision shall be
12 conclusive proof of the validity of the order of payment and the terms for payment.

13 (g) (1) Except as provided in paragraph (2), the board shall not renew or
14 reinstate the license of any licensee who has failed to pay all of the costs ordered
under this section.

15 (2) Notwithstanding paragraph (1), the board may, in its discretion,
16 conditionally renew or reinstate for a maximum of one year the license of any
17 licensee who demonstrates financial hardship and who enters into a formal agreement
with the board to reimburse the board within that one-year period for the unpaid
costs.

18 (h) All costs recovered under this section shall be considered a reimbursement
19 for costs incurred and shall be deposited in the fund of the board recovering the costs
to be available upon appropriation by the Legislature.

20 (i) Nothing in this section shall preclude a board from including the recovery of
the costs of investigation and enforcement of a case in any stipulated settlement.

21 (j) This section does not apply to any board if a specific statutory provision in
22 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

23 **FACTUAL ALLEGATIONS**

24 **Patient A**

25 10. Respondent saw Patient A² for an urgent care clinic visit on March 4, 2020. Patient A
26 went to MDStat Urgent care in Sacramento for flu like symptoms. Patient A was accompanied by
27 her fiancé. Patient A's fiancé asked Respondent if he was going to check Patient A's throat, ears,

28 ² Patient names are omitted to protect patient privacy. They will be provided in discovery.

1 or nose. Respondent replied, “Nah, that’s gross.” Respondent then made unsolicited and
2 inappropriate comments, complaining that people can no longer say words like “faggot” and
3 “retarded” because of the “PC culture.” Respondent then claimed that the coronavirus was
4 manufactured or engineered without any explanation. Respondent prescribed antibiotics without
5 examining Patient A.

6 11. Patient A and her fiancé also observed Respondent “like someone who was not
7 sober.” Respondent jumped from subject to subject with no connection, was fidgety, could not sit
8 still, and his eyes would roll back into his head in mid-conversation.

9 12. Respondent documented under cough/cold symptoms, “This is a new problem. The
10 current episode started in the past 7 days. The problem has been unchanged. The maximum
11 temperature recorded prior to her arrival was 100.4-100.9 F. Associated symptoms include
12 headaches and a sore throat. She has tried nothing for the symptoms. The treatment provided
13 mild relief.” Patient A’s history was brief and contained no real description of Patient A’s chief
14 complaint. The statement that Patient A had “tried nothing for the symptoms” and the “treatment
15 provided mild relief” is also contradictory.

16 13. Under the physical examination portion of the note, Respondent used a template that
17 did not represent true findings from the visit. The examination lists complete cardiac, abdominal,
18 musculoskeletal, and neurologic examinations, despite Patient A presenting with upper
19 respiratory complaints. Patient A and her fiancé also reported that Respondent did not examine
20 Patient A. Respondent failed to accurately and adequately, document the patient encounter and
21 perform an appropriate patient examination.

22 14. Respondent ordered an influenza test but failed to document the results. In his
23 interview with the Board, Respondent stated that Strep testing would likely have been ordered but
24 no documentation for Strep testing can be found in his note. Respondent diagnosed Patient A
25 with influenza, but it was unclear if this was a clinical or test proven diagnosis. Respondent
26 prescribed Tamiflu despite that Patient A was 7 days into her course. Respondent also prescribed
27 Zithromax without any valid or documented reasons. In his interview with the Board, Respondent
28 incorrectly stated that Tamiflu and Zithromax were the standard of care in treating influenza.

1 **Patient B**

2 15. Patient B went to MDStat Urgent Care on March 9, 2020 for an urgent care visit.
3 Patient B reported cough, sore throat, back pain, and chest pains. A nurse took his vitals and
4 performed some tests and subsequently took him to a room to wait for the doctor. Respondent
5 later came in, and Patient B observed that he looked “drunk or high”. Patient B observed that
6 Respondent could barely walk or talk. The nurse later knocked on the door and opened it up and
7 said something to Respondent. Respondent did not address Patient B’s complaint of chest pains,
8 and told Patient B that he himself had the flu for 10 days and that he was sick for all 10 days.
9 Respondent added that they were going to “shut down the facility that he works at because they
10 say the place is not sanitary and does not have any masks here at all for us to where (sic) etc.”
11 Respondent also said that “it was going to put him out of a job and he does not know where he
12 will be working at.”

13 **Patient C**

14 16. Patient C was a minor who was accompanied by her mother to MDStat Urgent Care
15 Clinic on March 11, 2020. Patient C complained of sore throat and upper respiratory symptoms.
16 In the clinic room, a nurse assistant swabbed Patient C for Strep and influenza testing and after 10
17 minutes, Respondent walked in and said “HEY”. Respondent sat down and started to use his
18 laptop. Respondent asked if she had sore throat, to which Patient C answered in the affirmative.
19 Respondent started to “mess around with his laptop and it shut down.” Patient C’s mother asked
20 Respondent if he was a doctor. Respondent answered yes, and Patient C and her mother observed
21 that Respondent “started to act weird.” Respondent was swiveling on his stool and making weird
22 faces at both Patient C and her mother. Patient C and her mother thought that Respondent “was
23 high as a kite”. Respondent asked Patient C where she was studying. After Patient C responded,
24 Respondent told Patient C and her mother that he went to Physician Assistant School. As
25 Respondent was speaking, he was holding on to the counter as he was swiveling so as not to fall
26 off. He continued to say “weird things” as he swiveled back and forth. Respondent told Patient
27 C and her mother that he was going to call in an antibiotic (Zithromax) for her but Respondent
28 never looked into her mouth or nose.

17. During the visit, Respondent failed to examine Patient C's throat, despite sore throat being the chief complaint. Respondent's physical examination notes also reveal that the majority was template, as it listed things Patient C denied as having been performed. The examination listed abdominal, musculoskeletal, and neurologic examinations for Patient C who presented with a sore throat.

Board Investigation

18. During the course of the Board's investigation into Patients A, B, and C, employees of MDStat were interviewed. Employees of MDStat observed that Respondent's behavior in the clinic was unprofessional. In an interview with Board investigators, Respondent explained that he had personal issues that left him fatigued, which could have been misconstrued by his colleagues at MDStat.

19. Two staff members of MDStat also recall that Respondent asked staff to administer Toradol³ to him. One of the staff members declined while another complied because she felt obligated to honor the request since Respondent was the provider in charge at the time. Respondent failed to document the medical indication for Toradol.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

20. Respondent's license is subject to disciplinary action under section 2234, subdivision (b), section 820, section 822, section 2266, and section 3527 of the Code, in that he committed gross negligence during the care and treatment of Patient A, B, and C as more particularly alleged in paragraphs 10 through 19 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

21. Respondent committed gross negligence in the care and treatment of Patient A and C which included but was not limited to the following:

A. Respondent failed to document and/or perform an appropriate medical evaluation of Patient A.

³ Toradol is a nonsteroidal anti-inflammatory drug (NSAID). Ketorolac works by reducing hormones that cause inflammation and pain in the body.

1 B. Respondent failed to document and/or perform an appropriate medical evaluation of
2 Patient C.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Repeated Negligent Acts)

5 22. Respondent's license is subject to disciplinary action under section 2234, subdivision
6 (c), section 820, section 822, section 2266, and section 3527 of the Code, in that he committed
7 repeated negligent acts during the care and treatment of Patient A, B, and C as more particularly
8 alleged in paragraphs 10 through 19 above, which are hereby incorporated by reference and
9 realleged as if fully set forth herein.

10 23. Respondent committed repeated negligent acts in the care and treatment of Patient A,
11 B, and C, which included, but was not limited to the following:

12 A. Respondent failed to document strep testing during the visit with Patient A;

13 B. Respondent failed to document his rationale for diagnosing Influenza and prescribing
14 Zithromax and Tamiflu to Patient A;

15 C. Respondent behaved in an unprofessional manner during the visit with Patient A;

16 D. Respondent behaved in an unprofessional manner during the visit with Patient B;

17 E. Respondent behaved in an unprofessional manner during the visit with Patient C;

18 F. Respondent used Toradol on himself, asking a staff member to administer it to him,
19 and without documenting the medical indication.

20 **THIRD CAUSE FOR DISCIPLINE**

21 (Failure to Maintain Adequate and Accurate Records)

22 24. Respondent's license is subject to disciplinary action under section 2266 of the Code
23 in that he failed to maintain adequate and accurate medical records relating to his care and
24 treatment of Patient A, and C, as more fully described in paragraphs 10 through 19, above, and
25 those paragraphs are incorporated by reference as if fully set forth herein.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct)

3 25. Respondent's license is subject to disciplinary action under sections 2227, 2234,
4 section 820, section 822, section 2266, and 3527 of the Code in that he has engaged in conduct
5 which breaches the rules or ethical code of the medical profession, or conduct which is
6 unbecoming a member in good standing of the medical profession, and which demonstrates an
7 unfitness to practice medicine, as more particularly alleged in paragraphs 10 through 19 above,
8 which are hereby incorporated by reference and realleged as if fully set forth herein.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Physician Assistant Board issue a decision:

12 1. Revoking or suspending Physician Assistant License Number PA 16318, issued to
13 Michael Patrick Reising, P.A.;

14 2. Ordering Michael Patrick Reising, P.A. to pay the Physician Assistant Board the
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
16 Professions Code section 125.3;

17 3. Ordering Michael Patrick Reising, P.A. if placed on probation, to pay the Board the
18 cost of probation monitoring; and,

19 4. Taking such other and further action as deemed necessary and proper.

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21 DATED: February 28, 2022

Rozana Khan

22 ROZANA KHAN
23 Executive Officer
24 Physician Assistant Board
25 Department of Consumer Affairs
26 State of California
27 *Complainant*

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